

Section 180.3, Title 14, CAC, is amended to read:

**§180.3. Restricted Access Fishery.**

(a) Control Date. A control date of January 1, 1999, is established for the purpose of developing a restricted access prawn trap fishery. Only those vessels which have made at least one prawn landing with trap gear before this date may be considered for inclusion in the restricted access trap fishery.

(b) Qualifications of Permittee. Effective April 1, 2002, no person shall use a vessel to land spot prawns for commercial purposes using traps authorized pursuant to Sections 8591 and 9001 of the Fish and Game Code, unless the owner of that vessel has a general trap permit, pursuant to Section 9001 of the Fish and Game Code, and a spot prawn trap vessel permit for that vessel that has not been suspended or revoked. A spot prawn trap vessel permit shall be issued only to the following persons for use on qualifying vessels:

(1) a person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code in each of the 1997-98, 1998-99, and 1999-2000 permit years, and has made landings of spot prawns utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the department pursuant to Section 8046 of the Fish and Game Code, and who has satisfied at least one of the following minimum landing requirements:

(A) at least 20 landings of spot prawns, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(B) at least 2,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1997, 1998 and 1999.

(C) at least 10,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1998 and 1999.

(D) Spot prawn trap vessel permits issued pursuant to subsection (b)(1) shall be considered as Tier 1 permits, and permitted vessels are authorized to use the maximum number of traps pursuant to Section 180.1, Title 14.

(2) a person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code in each of the 1997-98, 1998-99, and 1999-2000 permit years, and has made landings of spot prawns utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the department pursuant to Section 8046 of the Fish and Game Code, and who does not satisfy any of the minimum landing requirements in subsection (b)(1) and has satisfied at least one of the following minimum landing requirements:

(A) at least 10 landings of spot prawns, utilizing traps, in calendar year 1998;

(B) at least 1,000 pounds of spot prawns landed, utilizing traps, in calendar year 1998.

(C) Spot prawn trap vessel permits issued pursuant to subsection (b)(2) shall be considered as Tier 2 permits. Permitted vessels with Tier 2 permits are limited to fishing a maximum of 150 spot prawn traps at any one time and may not exceed a maximum of ~~2,500~~ 5000 pounds of spot prawns landed in any permit year. The revenue from any landings in excess of ~~2,500~~ 5000 pounds in any permit year shall be forfeited to the department.

(3) Any individual, who has been licensed as a California commercial fisherman for at least 20 years, and who has participated in the commercial spot prawn trap fishery for at least one of those years, and who has made at least 20 landings of spot prawns, using traps, totaling at least 10,000 pounds in one of those years, shall be issued a Tier 2 permit.

(c) Capacity Goal. The commission has determined that the spot prawn trap fishery

capacity goal for Tier 1 permits shall be 17. The commission has determined that the spot prawn trap fishery capacity goal for Tier 2 permits shall be 0.

(1) If the number of permits in Tier 1 is greater than 17 when this restricted access program is implemented, the following provisions will be in effect: An individual would be allowed one Tier 1 permit only if the individual purchases two existing Tier 1 permits. A total of 500 traps would be allowed for the Tier 1 permit. If the purchaser is an existing Tier 2 permittee, the Tier 2 permit would be retired. A permit holder of multiple Tier 1 permits must have all Tier 1 permits on the permit holder's vessel.

(2) If the number of permits in Tier 1 falls below 17, the following provisions will be in effect:

(A) The individual with an active Tier 2 permit and with the greatest amount of spot prawn landings, using traps, among active Tier 2 permit holders for the 5-year period June 1, 1996 to May 31, 2001 would be awarded the first available Tier 1 permit.

(B) The individual with an active Tier 2 permit and with the second greatest amount of spot prawn landings, using traps, among active Tier 2 permit holders would be awarded the next available Tier 1 permit, and so on until all Tier 2 permits are retired. After this time, when only Tier 1 permits exist, transfers will only be permitted on a one-to-one basis so as not to further reduce the number of permits.

(d) Application Deadline for Initial Issuance of Spot Prawn Trap Vessel Permit. All applications and permit fees for initial issuance of spot prawn trap vessel permits must be received by the department or, if mailed, must be postmarked no later than June 30, 2002. Applications for initial issuance of a spot prawn trap vessel permit received from July 1 through July 31, 2002 shall be considered late and will be assessed a late fee. Applications and monies due for the initial issuance of spot prawn trap vessel permits not received or, if mailed, not postmarked, by July 31, 2002 shall be returned to the applicant unissued.

(e) Minimum Landing Requirements for Spot Prawn Trap Vessel Permit Renewal. No minimum landings of prawns shall be required to be eligible for renewal of a spot prawn trap vessel permit

(f) Annual Spot Prawn Trap Vessel Permit Renewal. Applications for renewal of a spot prawn trap vessel permit shall be received by the department, or, if mailed, postmarked, by April 30 of each year. Applications for a spot prawn trap vessel permit received from May 1 to May 31 will be assessed a late fee. Spot prawn trap vessel permit renewals received after May 31, or if mailed, postmarked after May 31, shall become expired, shall be returned unissued to the applicant, and shall no longer be eligible for renewal in subsequent years.

(g) Presence of Owner on Vessel. An owner of the vessel to which the spot prawn trap vessel permit has been issued must be on the vessel when spot prawns are being taken or landed, except that one additional operator may be designated during a license year by informing the department in writing with a letter sent to Department of Fish and Game, Marine Region, 20 Lower Ragsdale Drive, Suite 100, Monterey, California 93940.

(h) Appeal for Reinstatement of an Expired Spot Prawn Trap Vessel Permit. The department may re-issue a spot prawn trap vessel permit that has not been applied for by the application deadline if the department finds that the failure to renew the permit prior to the expiration date was due to death of the permittee or immediate family member; physical illness, or other hardship. The appeal for reinstatement of an expired spot prawn trap vessel permit shall be received by the department or, if mailed, postmarked on or before March 31 following the permit year in which the applicant last held a valid spot prawn trap vessel permit.

(i) Revocation of Permit. A spot prawn trap vessel permit shall be revoked if the

permittee fails to:

(1) renew the permit or annually renew his or her commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code; or

(2) submits false information for the purposes of obtaining a spot prawn trap vessel permit.

(j) Transfer of a Spot Prawn Trap Vessel Permit to Another Vessel. A transfer of a spot prawn trap vessel permit may be approved for use on a replacement vessel only if all of the following criteria are met:

(1) The vessel owner submits a written request for transfer to the department and pays a non-refundable transfer fee.

(2) Under ~~penalty~~ penalty of perjury the vessel owner signs the application for transfer and certifies that the included information is true to the best of his or her judgement.

(3) The spot prawn trap vessel permit has not been previously transferred in the previous 12 months unless the vessel was lost, stolen, or destroyed within the previous 12 months.

(4) The spot prawn trap vessel permit for the permitted vessel is current, and the owner of the permitted vessel renewed the permit which becomes due during the application processing period prior to the expiration of the permit.

(5) The permitted vessel owner has written authority from the legal owner and/or partners, or mortgager, of the vessel, to which the permit shall be transferred, to transfer the spot prawn trap vessel permit from the permitted vessel.

(k) Change of Ownership of a Spot Prawn Trap Vessel Permit.

(1) Tier 2 spot prawn trap vessel permits shall not be ~~transferable~~ transferable to another individual.

(2) All Tier 1 spot prawn trap vessel permits shall be ~~transferable~~ transferable to another individual, but not more than once within any 3-year period, and not before April 1, 2005. A change of ownership of a spot prawn trap vessel permit may be approved only if the vessel owner submits a written request for change of ownership to the department and pays a non-refundable change of ownership fee. Thereafter, upon notice to the department, the person purchasing the spot prawn trap vessel permit may use that permit for the taking and landing of spot prawns for any and all of the unexpired portion of the permit year, provided the following requirements are met:

(A) the person purchasing the permit shall have a valid commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code that has not been suspended or revoked,

(B) the person is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code. The person receiving the permit shall be eligible for a permit, pursuant to the provisions of this section, for the use of that vessel in subsequent years.

(3) Notwithstanding subsection (k)(2), on the death of a spot prawn trap vessel Tier 1 permittee an heir may apply to the department to transfer that permit to him or her. The application for transfer shall be received by the department within one year of the death of the permittee.

(l) Appeals.

(1) Any applicant who is denied initial issuance of a spot prawn trap vessel permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31, 2003. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision

(2) Any applicant who is denied renewal of a spot prawn trap vessel permit may appeal

the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid spot prawn trap vessel permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(3) Any applicant who is denied transfer of a spot prawn trap vessel permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(4) In the above cases, the commission may order the department to issue or transfer the permit upon appeal if the commission finds that the appellant qualified for a permit under the restrictions of the restricted access program.

(m) Fees.

(1) The department shall charge an annual fee for each spot prawn trap vessel permit of two hundred fifty dollars (\$250.00).

(2) The department shall charge a non-refundable fee of two hundred dollars (\$200.00) for each vessel transfer.

(3) The department shall charge a non-refundable fee of fifty dollars (\$50.00) for each change of ownership of the spot prawn trap vessel permit.

(4) The department shall charge a non-refundable late fee of fifty dollars (\$50.00) if an application for initial issuance of a spot prawn trap vessel permit is received from July 1 to July 31, 2002.

(5) The department shall charge a non-refundable late fee of fifty dollars (\$50.00) if an application for renewal of a spot prawn trap vessel permit is received from May 1 to May 31.

Note:

Authority cited: Section 8591, Fish and Game Code. Reference: Sections 8101, 8590-8595, 9000, 9001 and 9015, Fish and Game Code.

History:

1. New section filed 5-3-2000; operative 5-3-2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 18).

2. Amendment of section and Note filed 3-14-2002; operative 3-15-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 11).